

REMARKS

Claims 1-40 are pending in the present application.

Applicants initiated an interview with the Examiner on Friday, February 27, 2004, in order to clarify why the Examiner issued the restriction requirement on February 9, 2004. The Examiner explained that she was withdrawing the Election of Species requirement that she issued on October 1, 2003 and substituting it with a Restriction Requirement. The Examiner explained that if she treated the election as an Election of Species, then upon allowance of the species, she would continue the search to consider a reasonable number of species. However, the Examiner is now taking the position that each species is a patentably distinct invention. Thus, any election at this point will be in response to a Restriction Requirement and she will not consider other species upon allowance of the elected species. Accordingly, the consequence of withdrawing the Election of Species requirement and substituting it with a Restriction Requirement is that no further examination of additional sequences will be conducted.

Applicants traverse this restriction requirement since the Examiner has failed to establish that the inventions are patentably distinct. Indeed, all of the inventions of Groups I-XXXVI are identically classified in class 530, subclass 324. Moreover, the Examiner has failed to establish that consideration of a reasonable number of sequences is an undue burden, especially since all of the claimed sequences are identically classified. Therefore, reconsideration and withdrawal of the Restriction Requirement are respectfully requested.

In response to the Restriction Requirement, Applicants elect invention XXXVI, claims 3, 4, 13 (in-part)-15, 17 and 18, drawn to amino acid encoded by SEQ ID No. 36 and SEQ ID No. 72, classified in class 530, subclass 324.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Marc S. Weiner (Reg. No. 32,181) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.


If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees

Appl. No. 09/805,020

required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17;
particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By 

Marc S. Weiner, #32,181

P.O. Box 747

Falls Church, VA 22040-0747

(703) 205-8000

MSW/sh

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